

REMARKS/ARGUMENTS

The Office Action of March 29, 2005, has been carefully considered.

It is noted that claims 26, 27 and 30-54 are rejected under 35 U.S.C. §112, first paragraph.

Claims 28 and 29 are rejected under 35 U.S.C. §112, first paragraph.

Claim 55 is rejected under 35 U.S.C. §112, first paragraph.

Claims 56 and 57 are rejected under 35 U.S.C. §112, first paragraph.

Claims 28, 29 and 55 are rejected under 35 U.S.C. §103(a) over the patent to Wagner in view of Japanese reference 363115022 to Sagara.

Turning first to the rejection of claims 28, 29 and 55 over the prior art, applicant submits that the combination of Wagner and Sagara does not teach the presently claimed invention.

The patent to Wagner discloses a valve arrangement for a sterilization container. This construction uses temperature controlled snap-discs. This is entirely different from the presently claimed invention. In Wagner, the cover 112 as a whole functions as valve means so that there is no problem of premature closing since there are strong springs 21 to maintain the cover-valve open until closure is required. Wagner also discloses an embodiment in which the valve means are provided in the bottom. This valve means 122 is, however, provided for controlling effluent of the condensate.

Sagara discloses a float-type temperature sensor for measuring the temperature of water in a water tank of a cooling tower. Sagara has a Styrofoam cover for prevent radiant heat of the sunshine from influencing the temperature sensor.

The Examiner combined these references in determining that claims 28, 29 and 55 would be unpatentable over such combination. Applicant respectfully submits that there is no motivation provided by either of these references for making the combination suggested by the Examiner. Sagara has absolutely nothing to do with a valve in a sterilization container, and the reasons there might be in such a sterilization container for protecting a temperature sensor contained therein from premature cooling. Without some acknowledgement of the need for protection of the temperature sensor in a sterilization container, it would not be obvious to take the teachings of Sagara to modify the construction of Wagner. Thus, it is respectfully submitted that the rejection of claims 28, 29 and 55 under 35 U.S.C. §103(a) over a combination of the

above discussed references is overcome and should be withdrawn.

Turning now to the Examiner's rejections of the claims under 35 U.S.C. §112, first paragraph, as based on a disclosure that is not enabling, applicant respectfully submits that the disclosure is enabling for the claims as presently written. Applicant submits that the Examiner's reliance upon *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976) is misplaced. *In re Mayhew* involves independent claims in which an entire step of the inventive method is missing, namely "the step of cooling a zone of the metal at the exit side of the bath" (188 USPQ 356, 357). In the claims rejected by the Examiner, no essential features are missing. It seems that the Examiner is rejecting the claims because the exact language found in the specification is not being repeated in the claims when describing certain elements. However, applicant is not aware of any requirement that the claims be limited to the specific embodiment described in the specification. In fact, it is accepted practice that a preferred embodiment is described in the specification and then the claims are drafted in a broader fashion so as to encompass the described embodiment as well as equivalents thereof. In claim 26, for example, applicant recites "a stop in the valve arrangement, the stop having a stop position to prevent the valve arrangement from moving the closed position..." One embodiment of this stop is described in the specification as a blocking pin that is attached to a spring and held in an inclined position. However, applicant at no point has made any assertion that this is the only possible construction for obtaining the desired result. The term "stop" as used in the claims is merely a broad recitation of a feature which provides the desired function recited in the claims and the specification. In other words, the functional language of claim 26 defines the stop in the valve arrangement and there is no indication given anywhere in the application that this stop should be limited to the specific structure recited in the specification. It has long been held that the presence of functional language does not render the claim improper. See *In re Swinehart and Sfiligoj*, 169 USPQ 226 (CCPA 1971).

A similar argument applies for the "temperature sensor is protected from premature cooling" recited in claim 28. Applicant has recited this feature functionally, which is permissible pursuant to *In re Swinehart and Sfiligoj*, cited above. There is nothing which requires that the specific structure recited in the Detailed Description of the Invention should be repeated identically in the claims. Once again, the specification only addresses specific embodiments of

the invention. Clearly, these features can be provided without slavishly following the exact construction recited in the specification. Thus, applicant respectfully submits that the specification enables much more than the specific structure of a thermal screening comprising a bowl and a lid, as the Examiner suggests. This is only one possible embodiment of the claimed structure which would protect the temperature sensor from premature cooling.

The same argument applies to claim 55 and the functional recitation that “the temperature sensor is isolated from a cooling effect of the sterilization process.” There is nothing which requires limitation to the specific embodiments recited in the specification. Applicant has merely broadly recited in functional terms a desired result which can be accomplished by a wide variety of specific configurations, only one of which is discussed in the specification of the present application.

Relative to claims 56 and 57, once again the Examiner objected to use of the term “stop.” Applicant refers to the arguments presented previously in connection with claims 26, 27 and 30-54. To briefly reiterate, the Examiner has misapplied the holding in *In re Mayhew* in that the claims of the present application are not missing any essential elements. Applicant instead is merely reciting the feature in question broadly using functional language. This broad recitation is intended to encompass not just the specific blocking pin construction recited in the specification, but also other constructions which would provide the intended function. Those skilled in the art would have no difficulty in developing, without undue experimentation, various different technical solutions which would fall within the purview of the stop recited in the claims.

Thus, applicant submits that all of the claims presently on file are based on a disclosure which is enabling. All of the features recited in the claims are described in the specification and are not intended to be limited to the specific construction discussed since that specific construction is only one embodiment covered by the claims.

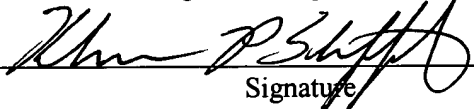
In view of these considerations, it is respectfully submitted that the rejections of claims 26-57 under 35 U.S.C. §112, first paragraph, are overcome and should be withdrawn.

Reconsideration and allowance of the present application are respectfully requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on June 29, 2005:

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Respectfully submitted,



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